

106TH CONGRESS
2D SESSION

S. 2244

To increase participation in employee stock purchase plans and individual retirement plans so that American workers may share in the growth in the United States economy attributable to international trade agreements.

IN THE SENATE OF THE UNITED STATES

MARCH 9, 2000

Mr. WYDEN (for himself and Mr. BAUCUS) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To increase participation in employee stock purchase plans and individual retirement plans so that American workers may share in the growth in the United States economy attributable to international trade agreements.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; AMENDMENT OF 1986 CODE.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Working Families Trade Bonus Act”.

6 (b) AMENDMENT OF 1986 CODE.—Except as other-
7 wise expressly provided, whenever in this Act an amend-
8 ment or repeal is expressed in terms of an amendment

1 to, or repeal of, a section or other provision, the reference
2 shall be considered to be made to a section or other provi-
3 sion of the Internal Revenue Code of 1986.

4 **SEC. 2. FINDINGS AND PURPOSE.**

5 (a) FINDINGS.—Congress finds that—

6 (1) exports represent a growing share of United
7 States production, and exports have accounted for
8 more than 10 percent of the United States gross do-
9 mestic product in recent years,

10 (2) export growth represented more than 36
11 percent of overall United States growth in gross do-
12 mestic product between 1987 and 1997,

13 (3) international trade flows in the United
14 States have grown twice as fast as the economy
15 since 1950, and, in real terms, the growth rate for
16 international trade has averaged about 6.5 percent a
17 year,

18 (4) between 1987 and 1997, more than
19 5,500,000 United States jobs have been created by
20 international trade,

21 (5) the globalization of the United States econ-
22 omy demands that appropriate domestic policy meas-
23 ures be undertaken to assure American workers
24 enjoy the benefits of globalization rather than be un-
25 dermined by it, and

1 (6) when the domestic economy and United
2 States companies achieve growth and profits from
3 international trade, workers ought to share in the
4 benefits.

5 (b) PURPOSE.—It is the purpose of this Act to assist
6 American workers in benefiting directly when inter-
7 national trade produces domestic economic growth.

8 **TITLE I—TRADE BONUS**

9 **SEC. 101. DETERMINATION AND ANNOUNCEMENT OF** 10 **TRADE BONUS.**

11 (a) DETERMINATION.—

12 (1) IN GENERAL.—The Secretary of Commerce
13 or the Secretary's delegate shall, for each calendar
14 year after 1998, determine whether international
15 trade of the United States contributed to an increase
16 in the gross domestic product of the United States
17 for such calendar year.

18 (2) TIME FOR DETERMINATION; SUBMISSION.—
19 The Secretary shall make and submit to the Presi-
20 dent the determination under paragraph (1) as soon
21 as practicable after the close of a calendar year, but
22 in no event later than June 1 of the next calendar
23 year. Such determination shall be made on the basis
24 of the most recent available data as of the time of
25 the determination.

1 (b) INCLUSION IN BUDGET.—The President shall in-
 2 clude the determination under subsection (a) with the sup-
 3 plemental summary of the budget for the fiscal year begin-
 4 ning in the calendar year following the calendar year for
 5 which the determination was made.

6 **TITLE II—PROVISIONS TO EN-**
 7 **SURE WORKERS SHARE IN**
 8 **TRADE BONUS**

9 **SEC. 201. UNITED STATES POLICY ON INTERNATIONAL**
 10 **TRADE BONUS.**

11 (a) GENERAL POLICY OF THE UNITED STATES.—It
 12 is the policy of the United States that if there is an in-
 13 crease in the portion of the gross domestic product of the
 14 United States for any calendar year which is attributable
 15 to international trade of the United States—

16 (1) workers ought to share in the benefits of
 17 the increase through—

18 (A) the establishment of employee stock
 19 purchase plans by employers that have not al-
 20 ready done so,

21 (B) the expansion of employee stock pur-
 22 chase plans of employers that have already es-
 23 tablished such plans, and

24 (C) the opportunity to make additional
 25 contributions to individual retirement plans if

1 the workers are unable to participate in em-
2 ployee stock purchase plans,

3 (2) employers should contribute additional com-
4 pensation to such employee stock purchase plans in
5 an amount up to \$2,000 per employee, and

6 (3) workers should contribute additional
7 amounts up to \$2,000 to individual retirement
8 plans.

9 (b) GUIDELINES.—It is the policy of the United
10 States that any employer establishing or expanding an em-
11 ployee stock purchase plan under the policy stated under
12 subsection (a) should—

13 (1) provide that the amount of additional stock
14 each employee is able to purchase in any year there
15 is a trade bonus is the amount determined by the
16 employer but not in excess of \$2,000,

17 (2) make the plan available to the widest range
18 of employees without discriminating in favor of high-
19 ly compensated employees,

20 (3) allow for the purchase of the maximum
21 amount of stock allowed by law at the lowest price
22 allowed by law, and

23 (4) ensure that the establishment or expansion
24 of such plan—

1 (A) provides employees with compensation
 2 that is in addition to the compensation they
 3 would normally receive, and

4 (B) does not result in a lack of diversifica-
 5 tion of an employee's assets, particularly such
 6 employee's retirement assets.

7 **SEC. 202. ELIMINATION OF CAPITAL GAINS TAX ON GAIN**
 8 **FROM STOCK ACQUIRED THROUGH EM-**
 9 **PLOYEE STOCK PURCHASE PLAN.**

10 (a) IN GENERAL.—Part I of subchapter P of chapter
 11 1 (relating to treatment of capital gains) is amended by
 12 adding at the end the following new section:

13 **“SEC. 1203. EXCLUSION FOR GAIN FROM STOCK ACQUIRED**
 14 **THROUGH EMPLOYEE STOCK PURCHASE**
 15 **PLAN.**

16 “(a) GENERAL RULE.—Gross income of an employee
 17 shall not include gain from the sale or exchange of stock—

18 “(1) which was acquired by the employee pursu-
 19 ant to an exercise of a trade bonus stock option
 20 granted under an employee stock purchase plan (as
 21 defined in section 423(b)), and

22 “(2) with respect to which the requirements of
 23 section 423(a) have been met before the sale or ex-
 24 change.

1 “(b) TRADE BONUS STOCK OPTION.—For purposes
2 of this section—

3 “(1) IN GENERAL.—The term ‘trade bonus
4 stock option’ means an option which—

5 “(A) is granted under an employee stock
6 purchase plan (as defined in section 423(b)) for
7 a plan year beginning in a calendar year fol-
8 lowing a calendar year for which a trade bonus
9 percentage has been determined under section
10 101 of the Working Families Trade Bonus Act,
11 and

12 “(B) the employer designates, at such time
13 and in such manner as the Secretary may pre-
14 scribe, as a trade bonus stock option.

15 “(2) ANNUAL LIMITATION.—Options may not
16 be designated as trade bonus stock options with re-
17 spect to an employee for any plan year to the extent
18 that the fair market value of the stock which may
19 be purchased with such options (determined as of
20 the time the options are granted) exceeds \$2,000.”

21 (b) CONFORMING AMENDMENTS.—

22 (1) Paragraph (9) of section 1(h) (relating to
23 maximum capital gains rate) is amended by striking
24 “and section 1202 gain” and inserting “section

1 1202 gain, and gain excluded from gross income
2 under section 1203(a)”.

3 (2) Section 172(d)(2)(B) (relating to modifica-
4 tions with respect to net operating loss deduction) is
5 amended by striking “section 1202” and inserting
6 “sections 1202 and 1203”.

7 (3) Section 642(c)(4) (relating to adjustments)
8 is amended by inserting “or 1203(a)” after “section
9 1202(a)” and by inserting “or 1203” after “section
10 1202”.

11 (4) Section 643(a)(3) (defining distributable
12 net income) is amended by striking “section 1202”
13 and inserting “sections 1202 and 1203”.

14 (5) Section 691(c)(4) (relating to coordination
15 with capital gain provisions) is amended by inserting
16 “1203,” after “1202,”.

17 (6) The second sentence of section 871(a)(2)
18 (relating to capital gains of aliens present in the
19 United States 183 days or more) is amended by in-
20 serting “or 1203” after “section 1202”.

21 (7) The table of sections of part I of subchapter
22 P of chapter 1 is amended by adding at the end the
23 following:

“Sec. 1203. Exclusion for gain from stock acquired through em-
ployee stock purchase plan.”

1 (c) EFFECTIVE DATE.—The amendments made by
 2 this section shall apply to stock acquired on and after the
 3 date of the enactment of this Act.

4 **SEC. 203. TRADE BONUS CONTRIBUTIONS TO INDIVIDUAL**
 5 **RETIREMENT PLANS.**

6 (a) IN GENERAL.—Section 219(b) (relating to max-
 7 imum amount of deduction) is amended by adding at the
 8 end the following new paragraph:

9 “(5) ADDITIONAL CONTRIBUTIONS IN TRADE
 10 BONUS YEARS.—

11 “(A) IN GENERAL.—If there is a deter-
 12 mination under section 101 of the Working
 13 Families Trade Bonus Act that there is a trade
 14 bonus for any calendar year, then, in the case
 15 of an eligible individual, the dollar amount in
 16 effect under paragraph (1)(A) for taxable years
 17 beginning in the subsequent calendar year shall
 18 be increased by \$2,000.

19 “(B) ELIGIBLE INDIVIDUAL.—For pur-
 20 poses of subparagraph (A), the term ‘eligible in-
 21 dividual’ means, with respect to any taxable
 22 year, any individual other than an individual
 23 who is eligible to receive a trade bonus stock
 24 option (as defined in section 1203(b)) for a
 25 plan year beginning in the taxable year.”

1 (b) CONFORMING AMENDMENTS.—

2 (1) Section 408(a)(1) is amended by striking
3 “in excess of \$2,000 on behalf of any individual”
4 and inserting “on behalf of any individual in excess
5 of the amount in effect for such taxable year under
6 section 219(b)(1)(A)”.

7 (2) Section 408(b)(2)(B) is amended by strik-
8 ing “\$2,000” and inserting “the dollar amount in
9 effect under section 219(b)(1)(A)”.

10 (3) Section 408(b) is amended by striking
11 “\$2,000” in the matter following paragraph (4) and
12 inserting “the dollar amount in effect under section
13 219(b)(1)(A)”.

14 (4) Section 408(j) is amended by striking
15 “\$2,000”.

16 (5) Section 408(p)(8) is amended by striking
17 “\$2,000” and inserting “the dollar amount in effect
18 under section 219(b)(1)(A)”.

19 (c) EFFECTIVE DATE.—The amendments made by
20 this section shall apply to taxable years beginning after
21 December 31, 2000.

22 **SEC. 204. CREDIT FOR SMALL EMPLOYER STOCK PUR-**
23 **CHASE PLAN START-UP COSTS.**

24 (a) IN GENERAL.—Subpart D of part IV of sub-
25 chapter A of chapter 1 (relating to business related cred-

1 its) is amended by adding at the end the following new
 2 section:

3 **“SEC. 45D. SMALL EMPLOYER STOCK PURCHASE PLAN**
 4 **CREDIT.**

5 “(a) GENERAL RULE.—For purposes of section 38,
 6 in the case of an eligible employer, the small employer
 7 stock purchase plan credit determined under this section
 8 for any taxable year is an amount equal to the qualified
 9 start-up costs paid or incurred by the taxpayer during the
 10 taxable year.

11 “(b) LIMITS ON START-UP COSTS.—In the case of
 12 qualified start-up costs not paid or incurred directly for
 13 the establishment of a qualified stock purchase plan, the
 14 amount of the credit determined under subsection (a) for
 15 any taxable year shall not exceed the lesser of 50 percent
 16 of such costs or—

17 “(1) \$2,000 for the first taxable year ending
 18 after the date the employer established the qualified
 19 employer plan to which such costs relate,

20 “(2) \$1,000 for each of the second and third
 21 such taxable years, and

22 “(3) zero for each taxable year thereafter.

23 “(c) DEFINITIONS.—For purposes of this section—

24 “(1) ELIGIBLE EMPLOYER.—

1 “(A) IN GENERAL.—The term ‘eligible em-
2 ployer’ means, with respect to any year, an em-
3 ployer which has 100 or fewer employees who
4 received at least \$5,000 of compensation from
5 the employer for the preceding year.

6 “(B) REQUIREMENT FOR NEW QUALIFIED
7 EMPLOYER PLANS.—Such term shall not in-
8 clude an employer if, during the 3-taxable year
9 period immediately preceding the 1st taxable
10 year for which the credit under this section is
11 otherwise allowable for a qualified stock pur-
12 chase plan of the employer, the employer and
13 each member of any controlled group including
14 the employer (or any predecessor of either) es-
15 tablished or maintained an employee stock pur-
16 chase plan with respect to which contributions
17 were made, or benefits were accrued, for sub-
18 stantially the same employees as are in the
19 qualified stock purchase plan.

20 “(2) QUALIFIED START-UP COSTS.—The term
21 ‘qualified start-up costs’ means any ordinary and
22 necessary expenses of an eligible employer which are
23 paid or incurred in connection with—

1 “(A) the establishment or maintenance of
2 a qualified stock purchase plan in which em-
3 ployees are eligible to participate, and

4 “(B) providing educational information to
5 employees regarding participation in such plan
6 and the benefits of participating in the plan.

7 Such term does not include services related to retire-
8 ment planning, including tax preparation, account-
9 ing, legal, or brokerage services.

10 “(3) QUALIFIED STOCK PURCHASE PLAN.—

11 “(A) IN GENERAL.—The term ‘qualified
12 stock purchase plan’ means an employee stock
13 purchase plan which—

14 “(i) allows an employer to designate
15 options as trade bonus stock options for
16 purposes of section 1203,

17 “(ii) limits the amount of options
18 which may be so designated for any em-
19 ployee to not more than \$2,000 per year,
20 and

21 “(iii) does not discriminate in favor of
22 highly compensated employees (within the
23 meaning of section 414(q)).

24 “(B) EMPLOYEE STOCK PURCHASE
25 PLAN.—The term ‘employee stock purchase

1 plan’ has the meaning given such term by sec-
2 tion 423(b).

3 “(d) SPECIAL RULES.—

4 “(1) AGGREGATION RULES.—All persons treat-
5 ed as a single employer under subsection (a) or (b)
6 of section 52, or subsection (n) or (o) of section 414,
7 shall be treated as one person. All qualified stock
8 purchase plans of an employer shall be treated as a
9 single qualified stock purchase plan.

10 “(2) DISALLOWANCE OF DEDUCTION.—No de-
11 duction shall be allowable under this chapter for any
12 qualified start-up costs for which a credit is deter-
13 mined under subsection (a).

14 “(3) ELECTION NOT TO CLAIM CREDIT.—This
15 section shall not apply to a taxpayer for any taxable
16 year if such taxpayer elects to have this section not
17 apply for such taxable year.”

18 (b) CREDIT ALLOWED AS PART OF GENERAL BUSI-
19 NESS CREDIT.—Section 38(b) (defining current year busi-
20 ness credit) is amended by striking “plus” at the end of
21 paragraph (11), by striking the period at the end of para-
22 graph (12) and inserting “, plus”, and by adding at the
23 end the following new paragraph:

24 “(13) in the case of an eligible employer (as de-
25 fined in section 45D(c)), the small employer stock

1 purchase plan credit determined under section
 2 45D(a).”

3 (c) PORTION OF CREDIT REFUNDABLE.—Section
 4 38(c) (relating to limitation based on amount of tax) is
 5 amended by adding at the end the following new para-
 6 graph:

7 “(4) PORTION OF SMALL EMPLOYER PENSION
 8 PLAN CREDIT REFUNDABLE.—

9 “(A) IN GENERAL.—In the case of the
 10 small employer stock purchase plan credit
 11 under subsection (b)(13), the aggregate credits
 12 allowed under subpart C shall be increased by
 13 the lesser of—

14 “(i) the credit which would be allowed
 15 without regard to this paragraph and the
 16 limitation under paragraph (1), or

17 “(ii) the amount by which the aggre-
 18 gate amount of credits allowed by this sec-
 19 tion (without regard to this paragraph)
 20 would increase if the limitation under
 21 paragraph (1) were increased by the tax-
 22 payer’s applicable payroll taxes for the tax-
 23 able year.

24 “(B) TREATMENT OF CREDIT.—The
 25 amount of the credit allowed under this para-

graph shall not be treated as a credit allowed under this subpart and shall reduce the amount of the credit allowed under this section for the taxable year.

“(C) APPLICABLE PAYROLL TAXES.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘applicable payroll taxes’ means, with respect to any taxpayer for any taxable year—

“(I) the amount of the taxes imposed by sections 3111 and 3221(a) on compensation paid by the taxpayer during the taxable year,

“(II) 50 percent of the taxes imposed by section 1401 on the self-employment income of the taxpayer during the taxable year, and

“(III) 50 percent of the taxes imposed by section 3211(a)(1) on amounts received by the taxpayer during the calendar year in which the taxable year begins.

“(ii) AGREEMENTS REGARDING FOREIGN AFFILIATES.—Section 24(d)(3)(C) shall apply for purposes of clause (i).”

1 (d) CONFORMING AMENDMENT.—The table of sec-
2 tions for subpart D of part IV of subchapter A of chapter
3 1 is amended by adding at the end the following new item:

“Sec. 45D. Small employer stock purchase plan credit.”

4 (e) EFFECTIVE DATE.—The amendments made by
5 this section shall apply to costs paid or incurred in connec-
6 tion with qualified stock purchase plans established after
7 the date of the enactment of this Act.

○